



Mind the caring gap

Exploring the impact of caring responsibilities in the legal sector

June 2024



Foreword

“On behalf of the Law Society of England and Wales, I would first like to thank everyone involved with this important report.

This report clearly outlines the impact that caring responsibilities have on those in the legal profession. Collectively, we need to ensure that those who are caring for a loved one feel supported and are not expected to choose between their career progression and their caring responsibilities.

Women in particular still face bias in the workplace, including the prospect of an unacceptable work/life balance in exchange for senior progression and the challenge of navigating a traditionally male-oriented promotion path.

The unequal sharing of caring responsibilities was evident during the various Covid-19 lockdowns, with women solicitors being more likely to take on extra childcare, home-schooling, and caring responsibilities than men. Some women

had to change both their working hours and responsibilities which could have resulted in long term implications for their career progression.

Many people will continue to hold caring responsibilities and the profession needs to continue to adapt and embrace them. There also needs to be a degree of inclusive flexibility in and promotion of, for example, appraisals, promotions and people policies such as for carers or parents, to ensure we do not lose talented solicitors who can often be on the cusp of senior careers when they find themselves with caring responsibilities.

I urge firms to take a strategic approach to developing an inclusive workplace for carers. The Law Society’s Diversity and Inclusion Framework, Women in Law Pledge and Reasonable Adjustments guidance can help us to create a truly inclusive profession in which everybody can thrive and feel valued, respected, and safe.”

Nick Emmerson, President of the Law Society

“In our work at Next 100 Years, we’ve often heard that women were overwhelmed by caring responsibilities at home which they felt prevented them from thriving at work. I am pleased we were able to delve deeper into the impact it has on women’s careers and recommend some actions. One key action that stood out for me is the need for more kindness and understanding from colleagues: although people’s caring responsibilities often happen out of sight, they are certainly not out of mind.”

Dana Denis-Smith

“Too many people working in the legal sector (myself included) have a bad habit of wearing our busyness like a badge of honour, as if we are physically and mentally indestructible. But the numbers suggest that caring for someone else isn’t so much of an ‘if’ but a ‘when’ for most of us. And the numbers also suggest that when a caring role emerges, it often will impact our own health and wellbeing in the process.

Therefore, we need to start to shift our thinking, collectively and individually, and acknowledge that we will all need a little extra flexibility and trust from time to time to be able to do our best work. That’s ok and not a sign of weakness or lack of commitment. Rather, investing in that is investing in our profession, talent retention and authentic inclusive culture.”

Rachel Pears

Introduction

According to the 2021 census, there are an estimated 5 million unpaid carers in England and Wales and 59% of them identify as women.

89% of respondents in our survey of carers identified as women.

According to Carers UK research¹, 1 in 7 people in the workplace in the UK are juggling work and care and 75% of carers in employment worry about continuing to juggle. On average, 600 people a day leave work to care.

1. <https://www.carersuk.org/media/no2lwyxl/juggling-work-and-unpaid-care-report-final-web.pdf>
https://www.carersuk.org/media/vgrlxkcs/soc22_final_web.pdf

“I was struck by the finding that 77% of respondents reported that their mental health had been negatively impacted by their caring responsibilities. When you read of the struggles many with caring responsibilities in our sector experience, this is not surprising. We need to do better. We all share a common goal of a diverse and sustainable legal sector, where everyone feels equally valued and can thrive. To achieve this we need to implement working practices that support the mental wellbeing of everyone and address the inequalities faced by those with caring responsibilities to ensure that they have an equal chance to reach their potential and contribute positively to the legal sector”

Elizabeth Rimmer

"I look after my adult daughter who is autistic and dyspraxic. I also look after my husband who has MS. He is at the stage now where he can barely walk but refuses to use a wheelchair. He won't leave the house. There are tons of hospital appointments. All the domestic chores are down to me."

"I look after my dad who has dementia. My mum has mobility issues. My wife is an only-child and we look after her parents too. We both work full-time. Our cultural background means that there is an expectation that we will just look after our parents; drop everything to support them."

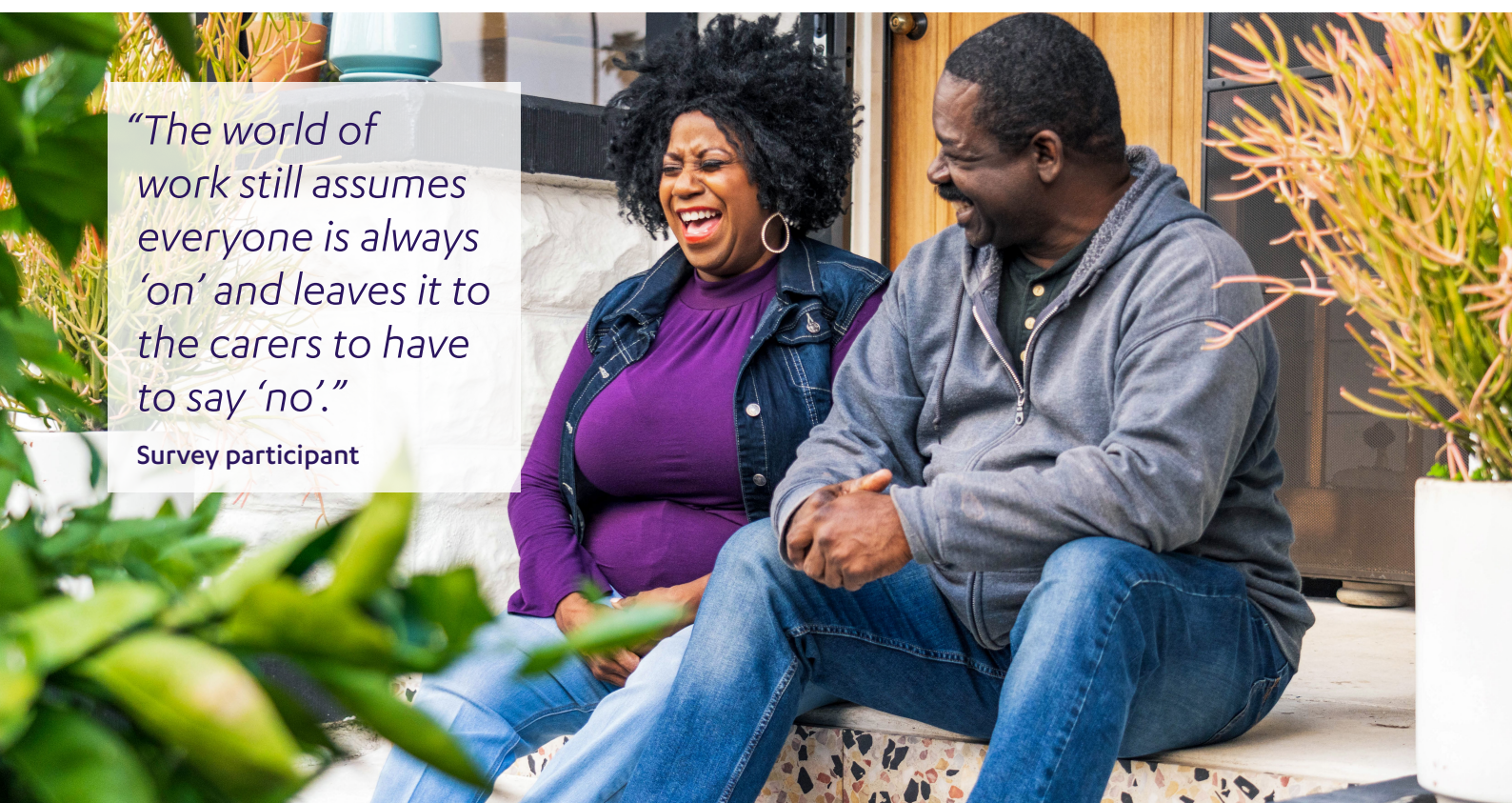
"I have looked after my wife over the last year. She was diagnosed with cancer and has been undergoing treatment. We were having to travel for appointments which was quite intense and time consuming. I was able to work from a quiet room in the hospital while she would get her chemo. Flexibility and social support from colleagues has been key. If there had been an inflexibility then I would have had to take a prolonged period off work which would have been bad for me and the firm."

"My husband and I look after my father-in-law. It's been on and off for the past seven years but intensely in the last two. His mobility has gone downhill. He is not fit enough to have the hip operation he needs and is in agony. Most days he tells me he wants to die. I'm constantly on the phone to the doctor about how desperate the situation is. Mentally it is super hard. I constantly have this anxiety of what next. I have to try to be in the moment as it can be very overwhelming."

"I look after my daughter who has a brain tumour. It's benign but the problem is where it is. They can't operate on it so treatment options are a bit more limited. It's behind her eye so it has caused sight loss in her right eye. She needs more help getting around and being aware of her surroundings. She has been on medication to help shrink the tumour which has caused hair loss and made her very ill. At the beginning we were at the hospital all the time which is a 2.5 hour drive away. It was so expensive – always paying for petrol and parking and eating on the go."

"The world of work still assumes everyone is always 'on' and leaves it to the carers to have to say 'no'."

Survey participant



What's in a name

Often when people are asked about looking after their children, they talk of 'childcare' but also say 'I don't think of myself as a carer, just a parent'.

When discussing caring for an older family member, people will often describe it as 'just looking after my mum/dad/gran/etc'.

Earlier this year, we decided to dig deeper into this question of 'what is a carer' – both via in depth interviews of RPC staff and with a profession-wide survey in partnership with Next 100 Years and LawCare. During our interviews most people did not identify as a 'carer'. The perception of 'a carer' was more akin to nursing – someone responsible for another person's personal needs like bathing, dressing, and feeding – as opposed to the general 'looking after' someone else who cannot do so independently, including young children. The survey results showed more people who identified with the term (55%) but still a significant 42% who did not.

There is no standard definition of carer which can make it confusing to understand and navigate the impact of caring responsibilities.

The definition of 'carer' varies depending on where you look and can be complicated to untangle. For example, the Carer's Leave Regulations 2024 uses the definition of 'carer' from the Employment Rights Act 1996 (section 80J). That states that:

"The Secretary of State must make regulations entitling an employee to be absent from work on leave ... in order to provide or arrange care for a dependant with a long-term care need.

(a) A person is a 'dependent' of an employee if they:

(i) are a spouse, civil partner, child or parent of the employee,

(ii) live in the same household as the employee, otherwise than by reason of being the employee's boarder, employee, lodger or tenant, or

(iii) reasonably rely on the employee to provide or arrange care, and

(b) a dependant of an employee has a long-term care need if–

(i) they have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months,

(ii) they have a disability for the purposes of the Equality Act 2010, or

(iii) they require care for a reason connected with their old age."

On the other hand, the Care Act 2014 defines a 'carer' as *"an adult who provides or intends to provide care for another adult (an 'adult needing care')"* but not if the adult provides or intends to provide care under or by virtue of a contract or as voluntary work (unless the local authority considers the definition to apply in the circumstances).

Assuming one was able to work out from the above if they satisfied the criteria, they might be inclined to then think they would

qualify for Carer's Allowance. However, the Citizen's Advice website states that *"Carer's Allowance is a benefit for people who are giving regular and substantial care to disabled people."* The eligibility criteria for Carer's Allowance then includes *"spending at least 35 hours a week caring for a disabled person"*. It also requires the person you care for being in receipt of a certain qualifying benefit such as a type of disability payment.

NHS England defines a carer as *"anyone, including children and adults who looks after a family member, partner or friend who needs help because of their illness, frailty, disability, a mental health problem or an addiction and cannot cope without their support"*. The Sense website states that *"a carer is someone who supports someone who can't carry out everyday tasks by themselves"* but also references the definition used in the Care Act 2014. Carer's Trust states that *"a carer is anyone who cares, unpaid, for a friend or family member who due to illness, disability, a mental health problem or an addiction cannot cope without their support"*.

The challenge with the myriad of definitions (legal, social, etc), overlaid by state benefits policies and structures, is that it can often mean that people do not identify as a carer and therefore don't access the support and resources available to them. This certainly seems to be the case from our findings and is backed up by other research eg Carer's UK *"Our State of Caring Survey 2022"* half of all carers (51%) took over a year to recognise their caring role, with over a third (36%) taking over three years to recognise themselves as a carer².

Against this background, it was even more important for us to explore what does 'caring' mean in the legal profession itself. Here's what we found.

Findings

No time to spare in this long-term role

73% of respondents to our survey had to take leave for caring responsibilities.

73% of those surveyed not only had to take leave for their caring responsibility but took their own annual leave. Others surveyed pointed out that they are self-employed and therefore do not have the option of taking traditional 'annual leave' so they wind up having to just reduce their working time (and therefore income).

One respondent explained the challenge around the *"lack of flexibility around NHS appointments for those you care for (which always take place during working hours, so you have to take that time off as annual leave)... [I end up] using up most of my annual leave to fulfil my caring responsibilities rather than to relax and recharge myself."* This is a significant issue as caring for others is already linked to negative effects on physical and/or mental wellbeing.

In addition to this, carers often feel guilty for having to take time away from work and find themselves overcompensating for the amount of time they have missed. They often use any spare personal time to carry out work in an attempt to highlight that their work isn't impacted and show their appreciation for being afforded the flexibility to take time away for caring responsibilities. This further contributes to the overall lack of rest and down-time that carers have.

The Carers UK report "State of Caring 2023, The Impact of Caring on: Health"³ found that a widespread lack of support and recognition from health and care services together with the physical and emotional

toll of caring itself has a detrimental impact on a carer. Therefore, if people are having to use their annual leave to provide unpaid work to others then they are not able to get a break and look after themselves. The Carers UK research found that 61% of carers said that being able to take regular breaks from caring would be a challenge over the coming year and 69% of carers found it difficult to get a good night's sleep. Nearly three quarters (73%) said that they continued to provide care even though they felt that they were near breaking point. Organisations must therefore be mindful that a carer may not be getting the same rest during their annual leave as a non-carer and may want to consider putting in place additional support processes to ensure their people aren't at risk of developing burnout.

Carers taking annual leave only means that they are taking a break from paid work. Annual leave does not necessarily mean rest from their unpaid caring duties.

Carers are paying with their careers

57% of our survey participants felt that their career was impacted due to caring responsibilities

Juggling caring responsibilities and work can feel like a mammoth task, and for many of the carers we spoke to, considerations around career progression and pay were often de-prioritised. Many were grateful for the stability in having their job, not only for the financial practicalities but also for the logistical coordination that most had established with employers to help with

their caring responsibilities. As a result, a large number of individuals felt that career progression wasn't a priority for them, or that any potential progression may disrupt the routine or flexibility that they already have in place.

For the majority of those we spoke to, the impacts of caring responsibilities also meant that there simply wasn't the time (or bandwidth) to consider how they might want to progress their career, rather than an explicit blocker within organisations. However, despite this, many felt that in most situations, there was a lack of proactivity or acknowledgement from managers and senior leaders that they were performing well despite their caring responsibility, and more often than not, were over-compensating for any flexibility or time off that they had been given.

Additionally, some carers felt guilty, or so grateful for the flexibility they have in their role that they almost felt that they couldn't ask questions in relation to their progression or pay for fear of being seen as 'greedy' or potentially facing restrictions or changes to their existing working patterns or flexibility.

Carers often feel like their career is shaped by their caring role and can act as an additional barrier to progression. Those who have caring responsibilities seem less likely to push for promotion, and since those who identify as carers are overwhelmingly female, this potentially manifests as a lack of female and caring representation at senior levels or partnership.

2. https://www.carersuk.org/media/vgrlxkcs/soc22_final_web.pdf

3. https://www.carersuk.org/media/xgwij0gn/soc23-health-report_web.pdf



Carers are paying with their health

77% of respondents said their mental health and 70% said their physical health were affected by their caring role.

"[The] Relentless nature of the job (at work) when combined with caring responsibilities means that there is no respite or down time. Pretty intolerable really."

The toll of caring has an overwhelmingly negative impact on carers' mental and physical health. Despite many organisations offering more mental and physical health support through private medical insurance and other benefits such as an EAP, many carers felt that they a) didn't have time to access these and b) that they didn't cater to the support they needed.

This was most true for women, who in addition to their job, were taking on the majority of the associated caring responsibilities and the domestic duties that come with looking after a loved one. For some, work provided respite, allowing carers a chance to focus their attention on

something else, and interact with other individuals in the organisation. However, the need to 'always be on', the constant worry and guilt about not being able to give something their full attention and the overall intensity of having to switch between 'professional' and 'carer' adds to the mental and physical stress that carers feel.

"It's not just the physical act of caring. It's the mental load of having a child with disabilities than needs caring for. It's 24/7!"

The relentlessness of being a carer, along with the additional pressures of work, can result in many carers feeling anxious, overwhelmed, sleep-deprived or burning out. According to the Carers UK research on caring and health, 49% of carers surveyed said that they felt depressed and over a quarter (27%) surveyed said that their mental health was bad or very bad⁴.


"Expectations in my profession are that if you don't work long hours you're lazy and not committed. Also pressures between my (male) partner and I whereby he doesn't share a fair or equal amount."

Lack of support

66% of respondents have either unpaid or no support at all.

30% said that where the organisation provided support, they took advantage and used it.

Most carers in the legal sector do not have any additional paid, unpaid or other support. Whether logistical, geographical or cultural, many carers find themselves shouldering the full weight of a caring role despite having some support. This lack of support further feeds into some of our other findings around carers needing to take leave to manage their caring responsibilities and the advantages of having more flexibility. There is a lack of clear and standardised support to help carers, who overwhelmingly do not have any other forms of support, whether this is financial or another person who can provide help with the physical and practical nature of caring. The pressures on time and finances together with the overall responsibility of caring and the lack of additional support, are factors that can have a negative impact on physical and mental health as evidenced in our survey.



“What do I want people to know? Just to understand the pressure. Have patience. We are all trying our absolute best. And if we fall down it’s just because we’ve got too much on our plate but we’ll get up again. Basically: Bear with me. I’m just losing the plot.”

Where support has been offered by employers, only 30% of individuals had used this – partly because of time and accessibility, and partly because the support available was not appropriate. To qualify for carer’s allowance or additional support, there are thresholds around the number of hours you provide in your caring role, and how much you earn. This can often mean that those working in the legal sector don’t qualify, instead absorbing additional caring hours alongside their job and being reliant on any support available through workplace schemes to provide financial support for time off. Without this additional state provided support, carers in the legal sector can be financially worse off – having to accept the additional costs that come with caring such as travel, shopping, medicine, appointments and may be working reduced hours/pay to create space for their caring role.

Tailoring support, providing time, openness and space are vital in ensuring carers feel supported.

We need more not less flexibility and empathy from managers

“Please don’t take away the flexibility, it has been a lifeline.”

A common theme throughout the interviews and survey responses was that flexibility is key. The unpredictability of what the caring role may require on any given day often means planning is difficult – appointments get changed, those being cared for become unwell, administration work piles up and workloads may change. The introduction of hybrid working, and a more flexible approach to the working day, has really helped carers to manage their competing priorities. Aside from having additional leave, all those who were interviewed noted that it was their manager’s approach to flexibility and work that had the greatest positive impact; those with flexible managers felt the most supported and were loyal and supportive of their managers and organisation.

“The starting point should be trust, unless it’s broken. Managers who trust that their employees can manage their own time, whilst allowing flexibility to accommodate caring responsibilities will always see the best output.”

4. https://www.carersuk.org/media/xgwlj0gn/soc23-health-report_web.pdf

Recommendations

Ensuring flexibility

One of the most significant forms of support for carers is to encourage flexibility. Trusting that carers want to work and will work as hard as they can is the approach that all organisations, and managers should take. Providing flexibility to attend appointments, or flexing working hours as and when needed can be a real lifeline for those with caring responsibilities. This flexibility should be a given and proactively suggested, rather than something that is 'earned' (or fought for). Hybrid and remote working are also valuable options for carers who told us that it meant they could juggle more easily, avoid having to pay for outside help and be more productive in their work.

Manager Training – make sure they are equipped as they make the most difference

Managers can make the most positive difference to a carer. Ensuring that all managers are equipped to support their team members with caring responsibilities should be a priority. People who feel valued, appreciated, and trusted by their managers will likely want to demonstrate their commitment, ability and loyalty and are more likely to raise concerns early and seek support. Managers should be supported to develop their skills and knowledge so they can have open conversations about caring with their teams and the mental and physical health impacts it can have. Managers that can provide and signpost to appropriate support can help transform how supported a carer feels in the workplace.

Introduce carers' leave policies

Having a clear, defined policy that carers and line managers can easily refer to can help relieve some of the burden and stress that carers may feel. Having a standardised approach, that is open to everyone and can be supported by HR teams is vital in ensuring that carers aren't reliant on their manager's discretion and can appropriately access the support and guidance needed. A policy also allows those who aren't yet comfortable to disclose their situation at work to know where to turn for information and resources. It is key though that any policy or guidance is regularly and widely communicated so that people know (a) that it exists, (b) where to find it and (c) that it is acceptable to utilise it.

Recognition of additional pressure/burden on women and the expectation that they will take on caring responsibilities

From our survey, it's clear that women are overwhelmingly taking on caring responsibilities, regardless of the situation (childcare, eldercare etc). It is important that line managers and organisations proactively acknowledge this when it comes to expectations in the workplace. Be mindful of those with caring responsibilities when planning work or social events and acknowledge this factor when it comes to appraisals, career development opportunities and promotion.

Factor caring responsibilities into career progression conversations and talent mapping

As with the above, influencing factors should be factored into career progression conversations. With representation of women at more senior levels and partnership much lower than that of junior populations, it's important to acknowledge what the barriers might be to that progression, and proactively manage that. Understanding how roles can be modified and supported to ensure a more flexible and effective position is important.



Methodology

For this report, we collected responses in a first of its kind carers survey carried out in February–March 2024. Our survey was conducted online, launching on 14 February 2024 and stayed open for four weeks. It was open to all genders from across the legal profession. Responses were received from 235 legal professionals working in a variety of roles – with 20% at partner level, around 14% working as barristers, or 16% as judges, and around 20% working as non-fee earners. ‘Other’ occupations represented in the survey include paralegals, counsel, legal directors and freelance consultants.

Our methodology also included confidential one to one interviews conducted by the Responsible Business Team at RPC internally, using specialist employment law knowledge in relation to legal developments in areas that can impact carers rights and protection as well as reviewing work carried out by other organisations such as LawCare in relation to mental health and wellbeing at work in the legal sector.

Epilogue

“I am one of 5 million unpaid carers identified in England and Wales. And I have certainly faced challenges in juggling the competing demands of being dedicated to my hard-earned career and what caring for others can entail (not to mention carving out time for myself occasionally). It has taken its toll on my mental and physical health. Over the years, I have had to work part-time, flexibly, remotely and take time off in order to evolve with the changing demands of caring.

I am also aware of how fortunate I have been that at work I have experienced such steadfast support from RPC and my managers. Although many would probably assume that my caring responsibilities would have negatively impacted my commitment to my job, it has had the opposite effect and has only strengthened my work ethic and loyalty to the firm. Work has been my respite and has given me a sense of identity and purpose outside of my role as a mother or daughter.”

Rachel Pears

Authors



Rachel Pears, RPC

Rachel is an employment lawyer whose passion for inclusion and diversity work led her to first becoming RPC's full-time inclusion and diversity lead seven years ago, and in more recent years, promoted to be RPC's first Head of Responsible Business with responsibility for delivery of RPC's own ESG strategy across the whole business. As well as providing advice to the firm in her role as Employment Counsel, Rachel has led the Responsible Business team to recently winning the 'Responsible Business of the Year' award at the 2024 Women and Diversity in Law Awards.

In 2019, she joined the Insurance Families Network, an Inclusion@Lloyds partner network, as Neurodiversity Champion and co-founded a network for people working in the insurance market who have a caring responsibility for a neurodivergent child. For the last two years, Rachel served on the Development Board of SeeAbility (The Royal School for the Blind), a charity supporting people with learning disabilities, autism and sight loss.



Rachel Euripides, RPC

Rachel is the DEIB and Responsible Business Senior Executive in RPC's Responsible Business Team. Having worked in Diversity, Equity and Inclusion, and Responsible Business in the legal sector for the last six years, and as a qualified CIPD professional, Rachel is passionate about embedding ESG throughout the sector, focusing on transforming policies and practices that can help advance DEI in the legal space, with a specific focus on wellbeing.

Alongside Rachel Pears, Rachel recently won 'Responsible Business of the Year' award at the 2024 Women and Diversity in Law Awards.

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Dana Denis-Smith, Next 100 Years

Dana is an award-winning entrepreneur, leading campaigner for equality, TEDx speaker and philanthropist. Dana is the CEO of Obelisk Support, a legal services provider offering flexible legal solutions to FTSE100 companies, law firms and growing businesses, UK-based or multinational. Obelisk's remote worker platform has over 2,000+ lawyers, many parents needing to work flexibly around their family commitments.

Dana regularly speaks at industry events and in the media on gender equality, entrepreneurship and legal technology. She has won numerous awards, including

in 2019, when she was recognised by the Legal 500 for Outstanding Achievement in Legal Services, and, in 2018, she was voted Legal Personality of the Year at the LexisNexis Awards. She holds an honorary doctorate in laws from the University of Worcester.

In 2014, she founded the First 100 Years, a national campaign to celebrate the first 100 years of women in the legal profession in the United Kingdom and Ireland.

The campaign culminated in centenary celebrations on 23 December 2019 and now focuses on the next 100 years, campaigning around key issues for women in law.



Elizabeth Rimmer, LawCare

Elizabeth is the CEO of LawCare, the mental health charity for the UK legal sector. She started her working life as a solicitor specialising in clinical negligence, practicing at Leigh Day. She joined LawCare from the Institute of Group Analysis, a membership and training organisation for group psychotherapists.

Before that she headed up Alzheimer's Disease International, a worldwide federation of Alzheimer associations. Elizabeth is Co-Chair of the Helplines Partnership (national charity for support and advice services) and a member of the International Bar Association's Professional Wellbeing Commission and chairs the Commission's regulatory and ethics committee.

Next Hundred Years

The Next 100 Years is the successor project to the First 100 Years and is dedicated to achieving equality for women in law. The project aims to accelerate the pace of change by encouraging collaboration across the legal profession, improving the visibility of women in law and supporting the women lawyers of the future. The project is powered by Spark21, a charity founded to celebrate, inform and inspire future

generations of women in the profession. It builds on the success of the First 100 Years project which was created to chart the journey of women in law in the first 100 years following the Sex Disqualification (Removal) Act 1919, which paved the way for women to become lawyers for the first time. The five-year project culminated with the centenary celebrations in 2019.

LawCare

LawCare is the mental health charity for the legal sector, offering free, confidential emotional support, peer support, and information to people working in law in the UK, the Channel Islands, and the Isle of Man. LawCare also advocates for improvements in mental health practices within legal workplaces, and actively leads cultural transformation through education, training, and research.

If you need support, call LawCare on 0800 279 6888, email support@lawcare.org.uk, or visit www.lawcare.org.uk.

